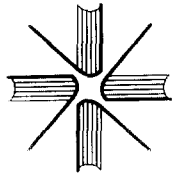


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Richard A. Esposito
Acting Commissioner of Education

Nancy A. Bolt
Assistant Commissioner
Libraries and Adult Services

September 26, 1997

SEP 27 1997

97-2197

William Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: CC Docket 96-45, Petition for Reconsideration of July 10 Order FCC 97-246
on Existing Contracts

Dear Mr. Caton:

This letter is to convey our concerns regarding the Federal Communications Commission's (the Commission's) current position regarding existing contracts. In the July 10 order referenced above, the Commission established a rule that any contract signed after November 8, 1996 and before the Universal Service Program becomes operational must be terminated by December 31, 1998. Although we appreciate the Commission's attempt to make this process fair and limit any kind of "gaming" on behalf of schools, libraries or telecommunications service providers, we strongly disagree with this ruling and believe it punishes schools and libraries with legitimate reasons for signing long term contracts during that period of time. We have asked our schools and libraries what issues they are currently facing and would like to share these situations with the Commission so that it can be assured that schools and libraries are doing what they need to do to meet the needs of their students and patrons irrespective of the Commission's program.

Broader Perspective:

It is important for the Commission to understand that schools and libraries are not in a position to count on the discounts offered by this program. First, although the Commission has taken the position that there is more than enough money to accommodate every school and library in the country, the presence of a trigger mechanism AND the McKinsey Report numbers lead many schools and libraries to the conclusion that there may NOT be enough money for every school and library. Second, the fact that Southwestern Bell Corp. and many others have

filed suit against this program reinforces the concern that the program could end at any moment. These situations concern schools and libraries who are not in a position to play with their budgets. If they have a savings that is guaranteed by a contract and a possible savings that may come in the besieged Universal Service Program, they will go with the contract because that is a more secure bet at this time.

Further, it is our understanding that schools and libraries will be allowed to sign longer term contracts once they have complied with the competitive bidding process established by the Commission. If that is true, even with longer term existing contracts, competition will eventually work its way into the program as the Telecommunications Act of 1996 encourages. If that is NOT true, the Commission has put all schools and libraries in a dissatisfactory position that limits the value of the discounts they will receive. This could discourage participation in the program, which is not the congressional intent of the law.

Finally, as one school representative pointed out to us, "schools need to get their services for the students established now, not next year. If you think about it, the exposure to the Internet and the world drops 12% a year for every year a school delays in delivering the service to a school." This representative believes this is enough of an incentive not to wait for the Universal Service Program.

Specific Situations:

In a mountainous state such as Colorado, one important issue is that there are areas without competition. For example, we have a very hot market for PCS in the Denver/Colorado Springs market (which is at the foot of the mountains) but once you enter the mountains, PCS becomes very unreliable. The same is true for microwave because it relies on sited points to work. So, for basic phone service, the standard phone company is the only game in town. In most cases, the "business case" is not there to augment services in the mountains, so those communities simply have to take what they can get.

There is an added market distortion that is caused by the uncertainty of impending competition. We have been told by a US WEST vendor that US WEST is not committing to adding new infrastructure since they have to wholesale it to competitive dial tone providers. With the lack of infrastructure, the next best way to increase revenues is to raise prices. Long term agreements benefit schools and libraries in this situation because they avoid rate increases that will be coming into the market shortly. As an example, frame relay prices increased approximately 45% during the Fall of 1996. If a school or library locked in a rate before the price increases, it would benefit tremendously. Even under a term agreements for a specific services, the Bell Operating Companies will let a client move to a newer services, thus getting past the issue of a school being stuck in an old technology. This is especially important in those areas where the incumbent telecommunications carrier is the only game in town.

Another example is the Colorado Information Infrastructure Project in the northeastern corner of the state. This project is funded with state dollars and provides grants for classroom equipment and Picture Tel video bridges. The school districts have to pay the

telecommunications costs to run these new services. While this is an ideal balance for the Universal Service program, the terms of the grant were that the equipment was operational by the beginning of the school year! This was logical when the money was distributed because, obviously, the Project wanted to make sure that students could use the technologies. However, it will significantly increase their anticipated telecommunications costs if they intend to take advantage of the Universal Service Program since they will have to break their contracts to apply.

Still another issue is the fact that it is very difficult and extremely frustrating for the staff in a school to install equipment and upgrade services during the school year. To take advantage of the recurring cost issue, which we are told are approximately 80% of telecommunications costs in the long run, new systems and equipment need to be installed and tested over the summer when there are no students in the way and there are personnel to assist in the installation and testing process. It is very clear from talking to schools that many instructors will not use equipment unless they feel comfortable with it. They simply do not have the time during the school year to learn the new technologies, so they try to do so over the summer. If a school is waiting around for the Universal Service Program, it delays the ability of its personnel and students to fully utilize the new services.

One school told us that many technology coordinators are part-time employees. They are teachers with other responsibilities and don't have the opportunity to focus on these issues as fully during the school year. This technology coordinator says "Once school starts, they have a normal full-time job to do and cannot afford the endless time on the phone and setting things up that this kind of project requires. This means that if a T1 or some other thing is installed in the middle of the year, most likely it will be some time before anything gets done about it (probably the next break or vacation)." This person also believes that "a simple delay from August or September to October or November [much less January or February] is effectively a delay for a whole year as far as the accessibility is concerned in a school setting, especially for a small school where people have many extra duties and projects to complete."

Conclusion

Our staff was specifically asked by the Commission staff to comment on how long existing contracts should be allowed to continue. Based on the information received from our schools and libraries, we believe a five year limit would be acceptable. We understand from some other sources that this may not be acceptable for some video-conferencing activities that have longer term investments in some very high tech equipment and services, but that does not appear to be a problem in Colorado.

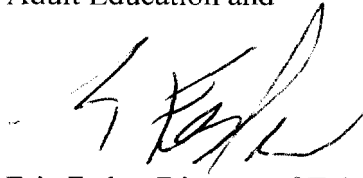
We would also urge the Commission to act on this issue immediately, not to issue an order now about acting later and then resolving the issue next year. Schools and libraries need to know where they stand right now, not next year. This will impact them specifically as they develop their budgets for the following year. That process begins in January and comes to a head in July. In order to accurately address their telecommunications costs and service needs, they need to know this information before January 1998.

We appreciate the opportunity to comment on this very important issue. We look forward to working with the Commission on resolving this and other issues regarding the Universal Service Program.

Sincerely,

A handwritten signature in cursive script, reading "Nancy M. Bolt".

Nancy Bolt, Assistant Commissioner Libraries and
Adult Education and

A handwritten signature in cursive script, reading "Eric Feder".

Eric Feder, Director of Telecommunications Services